

Bond Case Briefs

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DATA CENTERS - MARYLAND

Matter of Frederick County Data Center Referendum Committee

Supreme Court of Maryland - July 24, 2026 - A.3d - 2026 WL 2136994

Petitioners, who were entities and individual voters, petitioned for judicial review of the certification by county's election director of a petition to subject to a referendum a recently enacted county ordinance, which amended a comprehensive zoning plan to permit the construction of data centers and supporting infrastructure on no more than one percent of county land, seeking a declaration that the ordinance was not subject to referendum under the county charter and that the petition did not meet the charter's petition requirements.

The Circuit Court consolidated the petitions and ruled in favor of the petitioners. The referendum's proponents appealed.

The Supreme Court held that:

- The ordinance was not a law subject to referendum under the county's charter, and
- Even if it was, the referendum petition was deficient, as it did not provide a full and accurate reproduction of the ordinance as required by the charter.

County ordinance, which amended comprehensive zoning plan to permit construction of data centers and supporting infrastructure on no more than one percent of county land, was not a law subject to referendum under county charter provision authorizing the referral of a law, or part of a law, enacted pursuant to the charter to the voters for referendum; term "law" as used in charter's referendum provision did not include zoning ordinances, as charter adopted as the law of the county the provisions of Land Use Article that applied to county before the charter's adoption, namely those provisions that were applicable to it as a commission county, and before adoption of the charter, county zoning ordinances were adopted by ordinance, subject to judicial review as provided in the Land Use Article, and not subject to referendum.

The petition to subject to referendum a county ordinance providing for critical digital infrastructure overlay zone that permitted construction of data centers and supporting infrastructure on no more than one percent of county land was deficient under county charter, in that it failed to provide the required full and accurate reproduction of the ordinance, which contained 1½ pages of text and two color maps attached as exhibits, which used yellow boundary lines for overlay zone and ten colors to delineate zoning designations within and around overlay zone; although petition circulators each carried full color physical copy of ordinance and a link to a digital copy, reproductions of ordinance on back of each referendum petition signature page had black-and-white maps that did not clearly depict overlay zone boundary or zoning designations, and surrounding street names were illegible.